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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/780,907

02/17/2004

David M. Bond

PQI-008CPCN2

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11/14/2006

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EXAMINER

YOON, TAE H

ART UNIT

PAPER NUMBER

1714

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/780,907	Applicant(s) BOND ET AL.	
	Examiner Tae H. Yoon	Art Unit 1714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-19 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 2-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2, 6, 7 and 11-16 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Coover, Jr. et al (US 3,483,870).

Coover, Jr. et al teach a method of combining α -cyanoacrylate and local anesthetic in abstract and example 3. Said α -cyanoacrylate inherently meets the instant bone cement since it is an adhesive absent further limitation. Said anesthetic is a basic compound (col. 2, lines 20-21), and said basic compounds on col. 3 include a liquid form and a solid form. Acid forms of said basic compound and dosage of said local anesthetic are taught at col. 4, lines 18-22 and 42-52.

Thus, the invention lacks novelty.

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Claim 2-19 are rejected under 35 U.S.C. 103(a) as obvious over Kindt-Larsen et al (US 4,910,259) in view of Schmidt et al (The Journal of Infectious Diseases, Vol. 121, No. 6, pages 597-607, 1970) and applicant's admission on page 1, lines 21-22, of specification.

Kindt-Larsen et al teach bone cement composition comprising a liquid monomeric (meth)acrylate, polymeric powders of methyl methacrylate, X-ray contrast agent, an initiator such as benzoyl peroxide and a biologically active compound in abstract and tables of examples I and II.

The instant invention further recites local anesthetic and gas sterilization over Kindt-Larsen et al. However, the use of local anesthetic (Lidocaine and Procaine) in biological applications is well known as taught by Schmidt et al, see pages 598-599 and Summary. Said Lidocaine and Procaine are basic liquid and hydrochloride monohydrates thereof would be acidic sloid. Applicant states that said gas sterilization of polymeri materials is generally well known at page 1.


It would have been obvious to one skilled in the art at the time of invention to utilize Lidocaine and/or Procaine in a basic liquid form or acidic salt form thereof taught by Schmidt et al in Kindt-Larsen et al since Kindt-Larsen et al teach employing a biologically active compound and since the use of local anesthetic (Lidocaine and Procaine) in biological applications is well known as taught by Schmidt et al and since the use of mixed components for the similar or same purpose would be a routine practice in the art absent any synergism, and furthermore, it would have been obvious to one skilled in the art at the time of invention to gas sterilizing the bone cement of

Kindt-Larsen et al in order to prevent infections as evidenced by applicant's admission absent showing otherwise.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tae H. Yoon whose telephone number is (571) 272-1128. The examiner can normally be reached on Mon-Thu.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Tae H Yoon
Primary Examiner
Art Unit 1714

THY/November 10, 2006